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HUMAN RIGHTS COMMITTEE

Fifty-sixth session

SUMMARY RECORD OF THE 1474th MEETING

Held at Headquarters, New York,
on Monday, 18 March 1996, at 10.30 a.m.

Chairman: Mr. AGUILAR

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The meeting was called to order at 10.45 a.m.

OPENING OF THE SESSION

1. The CHAIRMAN declared open the fifty-sixth session of the Human Rights Committee.

STATEMENT BY THE REPRESENTATIVE OF THE SECRETARY-GENERAL

2. Mrs. KLEIN (Representative of the Secretary-General) recalled that the United Nations was currently facing a financial crisis brought about primarily by the non-payment by a number of Member States of their assessed contributions, but also because the Organization's budget for the biennium 1996-1997 had been significantly reduced by the General Assembly. It was clear that the implications of those cuts on the activities of the Secretariat would be quite serious, involving the freezing of posts and reductions in financial resources for every department. Although the Secretariat remained fully committed to servicing the Committee to the best of its ability, those difficulties would unavoidably have an impact on the work of the Human Rights Committee, particularly in respect of the translation, reproduction and distribution of documents.

3. She drew attention to several resolutions on human rights which had been adopted by the General Assembly at its fiftieth session, including resolution 50/171. In that resolution, the Assembly had expressed its satisfaction with the serious and constructive manner in which the Committee was carrying out its functions. The Assembly had renewed its call for the Committee to identify specific needs of States parties that might be addressed through the advisory services and technical assistance programme of the Centre for Human Rights, and stressed the importance of taking the gender perspective into account in the Committee's work. In its resolution 50/170, on the effective implementation of international human rights instruments, the General Assembly had encouraged the efforts of the human rights treaty bodies to examine the progress made in achieving the fulfilment of human rights treaty undertakings by all States parties, even in cases where reporting obligations had not been complied with, and urged all States parties whose reports had been examined by treaty bodies to provide adequate follow-up to the observations and final comments of the treaty bodies on their reports. It had also welcomed all appropriate measures the human rights treaty bodies might take, within their mandates, in response to situations of massive human rights violations, including bringing those violations to the attention of the United Nations High Commissioner for Human Rights, the Secretary-General and the competent bodies of the United Nations in the field of human rights. The Assembly had further requested the High Commissioner to coordinate and consult throughout the United Nations system in that regard.

4. She was unable to brief the Committee on the work of the Commission on Human Rights because the Committee's current session coincided with the Commission's regular session in 1996. Details would therefore be provided concerning the activities of the Commission and its relevant resolutions at the next session of the Committee.

5. The Committee on the Rights of the Child had met twice since the closure of the preceding session of the Human Rights Committee. It had devoted one day to a general discussion on the administration of juvenile justice, focusing on the effective implementation of existing standards as well as the value of international cooperation in that area, particularly through programmes of technical assistance. The Committee on the Rights of the Child had also reviewed the results of the fourth informal meeting it had held in October 1995 in the South Asian region, in the course of which there had been a thematic regional consultation organized by the United Nations Children's Fund (UNICEF) on the issue of child labour.

6. In November 1995, the Committee against Torture had discussed several procedural issues which were considered to require amendments to its rules of procedure. A new rule had been adopted according to which the Chairman was authorized to take action on the Committee's behalf between sessions in order to promote compliance with the Convention if he received information which led him to believe that it was necessary to do so. The Chairman would then report on the action taken to the Committee at its following session. She noted that the Committee against Torture had been receiving a growing number of individual communications. A majority of the cases related to the implementation of article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, under which States parties should not expel, return or extradite a person to another State where there were substantial grounds for believing that he would be in danger of being subjected to torture.

7. The Committee on Economic, Social and Cultural Rights, at its latest session, had carefully considered the final report of the Working Group on the Right to Development; it had considered that monitoring of the implementation of the Declaration on the Right to Development should be carried out together with the monitoring of economic, social and cultural rights generally. It had expressed its willingness in principle to assume at the appropriate moment the responsibility of monitoring the Declaration.

8. The Committee on the Elimination of Racial Discrimination had adopted two new general recommendations at its latest session. One related to the right to enjoy civil, political, economic, social and cultural rights free of discrimination, and the second to issues of self-determination arising from several articles of the Convention. She recalled that that Committee had adopted a special procedure relating to the review of compliance by States parties whose reports were seriously overdue. The procedure seemed to be working particularly well in relation to the five reviews scheduled for the latest sessions since, in four of these cases, reports had been submitted or firm commitments to submit them had been received.

9. Ms. EVATT expressed surprise that the representative of the Secretary-General had made no reference to the recent session of the Committee on the Elimination of Discrimination against Women.

10. Mrs. KLEIN (Representative of the Secretary-General), replying to Mrs. Evatt, said that both the High Commissioner for Human Rights and the Chairperson of the Committee on the Elimination of Discrimination against Women had been informed by the Secretary-General that the programme budget for

1996-1997 as adopted by the General Assembly in December did not make provision for any change in the current servicing of the latter Committee, so that it would continue to receive support from the Division for the Advancement of Women.

11. With regard to the follow-up to the Fourth World Conference on Women, the Committee secretariat would be circulating a note in which a first attempt had been made to correlate the provisions of the Beijing Declaration and Platform for Action with the provisions of the Covenant.

ADOPTION OF THE AGENDA (CCPR/C/111)

12. The agenda was adopted.

SOLEMN DECLARATION BY A NEWLY ELECTED MEMBER OF THE COMMITTEE IN ACCORDANCE WITH ARTICLE 38 OF THE COVENANT

13. Lord COLVILLE solemnly undertook to discharge his duties as a member of the Human Rights Committee impartially and conscientiously.

ORGANIZATIONAL AND OTHER MATTERS

Provisional programme of work

14. The CHAIRMAN informed the Committee that senior officials of the Government of Peru were currently in Geneva for the session of the Commission on Human Rights, and that the State party had therefore requested that the consideration of its third periodic report should be postponed until the Committee's forthcoming session in July, in order to enable the Government to be represented by an appropriately high-level delegation.

15. Mr. POCAR, noting that agenda item 4, regarding action by the General Assembly at its fiftieth session, did not seem to be reflected in the proposed programme of work, wondered whether the matter would be discussed at the same time as the outcome of the Beijing Conference.

16. The CHAIRMAN said that the details of the programme of work, as well as the use that would be made of additional time that had become available as a result of postponement of consideration of Peru's report, would be discussed at the Committee's next meeting.

17. The provisional programme of work was adopted.

Reports of Chairmen/Rapporteurs of Working Groups

18. Mr. MAVROMMATIS, speaking as Chairman of the Working Group on Communications, said that the Group, which also included Mr. Kretzmer, Mr. Lallah, Mrs. Medina Quiroga and Mr. Prado Vallejo, had met the previous week and adopted 24 recommendations. Twelve recommendations contained draft views on cases to be considered on the merits (including two recommendations combining a draft decision on admissibility with draft views), which, together with the five cases involving draft views held over from the previous session, would make 17

cases to be considered on the merits. Two of the more difficult communications the Committee would be considering raised important issues under articles 4 and 14 of the Covenant. The Working Group had also adopted two recommendations to declare communications inadmissible; two recommendations to discontinue consideration of communications; and eight draft decisions to declare communications admissible.

19. Mr. ANDO, speaking as Chairman/Rapporteur of the Working Group on Article 40, said that the Group, comprising also Mr. Bruni Celli, Mrs. Chanet and Mr. El-Shafei, had adopted draft lists of issues in connection with the reports of five countries, namely, Mauritius, Spain, Zambia, Peru and Guatemala. In the case of Guatemala, the Committee would be considering an initial report.

20. The Working Group had also discussed methods of work and would be circulating a paper to the members of the Committee on topics such as a harmonized approach to consideration of initial and periodic reports, a more efficient way of drafting the Committee's concluding comments, and ways to handle overdue reports and follow-up under article 40. The Working Group had also considered which general comment the Committee should take up next.

Lists of issues to be taken up in connection with the consideration of reports submitted by States parties under article 40 of the Covenant

Initial report of Mauritius (CCPR/C/64/Add.12; HRI/CORE/1/Add.60)

Sections I, II and III

21. Sections I, II and III were adopted.

Fourth periodic report of Spain (CCPR/C/95/Add.1; HRI/CORE/1/Add.2/Rev.2)

Section I

22. Section I was adopted.

Sections II and III

23. Ms. MEDINA QUIROGA, pointing out a minor correction to the Spanish version, said with regard to section II (f) that when the report was considered she would be raising more specific questions orally on Spain's general compliance with all parts of article 14 of the Covenant.

24. Sections II and III were adopted.

Second periodic report of Zambia (CCPR/C/63/Add.3; HRI/CORE/1/Add.2/Rev.1)

Sections I, II and III

25. Ms. EVATT, recalling a communication in connection with which the Committee had found the mandatory death penalty to be a violation of the Covenant, asked whether its earlier jurisprudence had been taken into account in drafting section II (a) on judicial provisions in Zambia.

26. Mr. ANDO observed that while the Committee always followed up on views it adopted on communications, the point raised by Ms. Evatt was a general issue and therefore had not been discussed in the Working Group. She could therefore ask the question orally in due course.

27. Mrs. CHANET noted that the issue of gender discrimination was listed both under section I and again under section III, and the repetition should be eliminated.

28. The CHAIRMAN observed that the Spanish version of section III omitted article 25 from the parenthetical list of articles in the heading.

29. Ms. EVATT said that the problem lay in the fact that both sections I and II referred to articles 24 and 25 of the Covenant, and she proposed that those two articles and related issues should be deleted from section I.

30. It was so decided.

31. Section I, as orally amended, and sections II and III were adopted.

Initial report of Guatemala (CCPR/C/81/Add.7; HRI/CORE/1/Add.47)

32. Mr. ANDO recalled that it was the first time a list of issues had been drawn up for an initial country report, pursuant to a Committee decision in October. The Working Group, uncertain as to the format to follow, had not divided the list into the usual three main sections; but the list generally followed the usual progression of questions in relation to articles of the Covenant.

33. Mr. POCAR observed that when a list of issues was not divided into sections, a procedural problem arose. Since Guatemala would have received the list in advance, it would plan to address it at the outset, and that would not leave time for the Committee to ask additional questions at the first meeting. Yet the second meeting at which the report of Guatemala was to be considered had been scheduled two days after the first precisely to allow the delegation time to prepare answers to such questions. It seemed to him preferable to group the questions into sections and inform the delegation that they would have a strict one-and-one-half-hour time-limit, at the first meeting, to respond to the list of issues. The Committee would then be able also to put further questions.

34. Ms. MEDINA QUIROGA inquired whether it would be possible to submit additional written questions to Guatemala for consideration in conjunction with the list of issues. For example, the wording of issue (d) was too general and needed to be clarified.

35. The CHAIRMAN confirmed that the list of issues could be amended. Indeed, the Guatemalan authorities had indicated that they had had some difficulty in replying to such general points.

36. Ms. EVATT recalled that the Committee had agreed not to tamper substantially with lists of issues. She suggested that the list could be used as a framework for more detailed subsequent oral questions.

37. Mr. KLEIN said that the list of issues reflected a section-by-section approach to the Covenant, which had the advantage of developing a dialogue with the State party. The disadvantage was that the final sections were sometimes not fully discussed owing to time constraints.

38. Mr. KRETZMER said that the disadvantage of the section-by-section approach embodied in the current list of issues was that there would be no time left over to ask additional questions. The State party could therefore limit itself to general replies without having to enter a genuine dialogue. The Committee should also bear in mind that the suggestion to split the list of issues was an experiment which could be subsequently adopted or rejected.

39. Mr. BHAGWATI said that he favoured splitting the list of issues in such a way that attention was focused on specific articles of the Convention.

40. The CHAIRMAN reminded the Committee that the scale of human rights abuses in Guatemala merited a thorough investigation. It would be folly for the Committee not to take as much time as possible to consider the issues raised by the initial report of Guatemala. For that reason he favoured splitting up the list of issues in such a way that the most glaring problems would be dealt with first of all.

41. Ms. EVATT said that she was prepared to accept the Working Group's recommendation that the list of issues should be split into priority and secondary areas of concern.

42. Lord COLVILLE said that the list of issues did not easily divide into neat categories. However, in his opinion the questions raised in issues (e), (f), (i), (k), (m) and (p) required the most attention.

43. Mr. POCAR said that he would be inclined to add issue (h) to the priority category. Since the current procedure was an experiment, the Committee might consider a similar sort of regrouping in periodic reports.

44. Mr. LALLAH said that the Committee was engaged in an experiment with respect to the initial report of Guatemala. In some cases, the Committee needed to look into the implementation of the Covenant in general. Certainly in the case of Guatemala there were serious problems to be addressed. It might be most appropriate for the Committee to retain its earlier procedure, which had had the merit of accommodating all kinds of countries.

45. The CHAIRMAN said that a problem had arisen because the Committee, in its decision on a list of issues for initial reports, had not determined what its procedure was to be. In the case of Guatemala, the Committee needed to decide whether the list was to be divided into sections.

46. Mr. KLEIN said that the Committee could follow the proposal to divide the list into two sections, beginning with the more important issues at the first meeting, and leaving the other issues to the second meeting. Members could group their questions accordingly.

47. Mr. EL-SHAFEI said that no more than two hours should be needed for responses to the list, following which there could be oral questions on those responses. The delegation would then have an intervening day to prepare its replies. The real question was how to promote a useful dialogue.

48. Mr. BUERGENTHAL, supported by Ms. MEDINA QUIROGA, agreed that the proposed division of the list into two sections was sound and should not create any difficulty for the State party.

49. The CHAIRMAN said that the list would thus be divided into two sections: section I would comprise issues (e), (f), (i), (k), (m) and (p), as proposed by Lord Colville, issue (h), as proposed by Mr. Pocar, and issue (a), which was important because of the contradictions apparent from the report between the Covenant and Guatemalan legislation; section II would consist of the remaining issues.

50. He invited the Committee to adopt the list issue by issue.

Issues (a) and (b)

51. Issues (a) and (b) were adopted.

Issue (c)

52. Mr. BUERGENTHAL said that the second question should ask whether the public had been involved in the preparation of the report.

53. Mr. ANDO said that the Working Group has considered that point but, given that each State's method of preparing its report differed, had thought it better to use the current formulation.

54. Mr. BHAGWATI asked whether the usual formulation was not to ask whether the public had been informed of the contents of the report.

55. The CHAIRMAN said that the second question would be amended to refer to the contents as well as to the Committee's consideration of the report.

56. Issue (c), as orally amended, was adopted.

Issue (d)

57. The CHAIRMAN suggested that issue (d) could be deleted.

58. Mr. BRUNI CELLI said that the issue should be retained even if it was general, since it allowed delegations an opportunity to provide explanations.

59. Mr. FRANCIS agreed that it should not be deleted; it appeared in all lists of issues.

60. Mr. POCAR said that it had been a standard inclusion in the past, but that it had subsequently been decided that such general formulations allowed

delegations to avoid coming to the point. Perhaps the issue could be moved to the end of the second day.

61. Lord COLVILLE agreed that issue (d) should be moved to the second day, since many elements that might otherwise be raised under that issue would be better dealt with under other issues on the first day.

62. The CHAIRMAN said that issue (d) would be moved to the end of the second day, and would be amended to refer to factors not so far dealt with in the Committee's consideration of the report.

63. Issue (d), as orally amended, was adopted.

Issue (e)

64. Ms. MEDINA QUIROGA said that issue (e) should also refer to the relationship with the courts of the human rights bodies mentioned in the first sentence.

65. The CHAIRMAN said that wording to that effect would be added.

66. Issue (e), as orally amended, was adopted.

Issue (f)

67. Issue (f) was adopted.

Issue (g)

68. Ms. MEDINA QUIROGA asked whether the report contained factual information on the status of women; if not the question should be more specific. A second sentence should be added to read "Please provide information on the actual situation of women in Guatemala and on particular instances of discrimination brought to the attention of the Government".

69. Issue (g), as orally amended, was adopted.

Issue (h)

70. Ms. MEDINA QUIROGA said that the wording of issue (h) was somewhat jumbled and required clarification.

71. Mrs. CHANET agreed that the wording could be clearer. The Committee should certainly inquire about the impact of the civil war but should also ask what rights had been suspended under the state of emergency.

72. The CHAIRMAN said that issue (h) could be divided into three elements dealing with the civil war, safeguards, and rights under article 4, paragraph 2.

The meeting rose at 1.05 p.m.